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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/989,255
Filing Date: November 20, 2001
Appellant(s): LIN, MING-HUNG

Terry W. Kramer
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 10, 2006 appealing from the Office action mailed August 24, 2005.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tryding (US005880732A) in view of Makipaa et al (US006556217B1) and Erekson (US006622018B1).

Regarding **claim 1**, Tryding discloses an apparatus where a base transceiver station 25 will transmit a variety of data and messages to the mobile telephone 10 through a downlink 30 (see column 2, lines 31-34 and figure 1), which reads on the claimed "mobile device comprising primary communication means for establishing a primary communication session...with a content server". The apparatus also generates a communications link 5 between a mobile telephone 10 and a display monitor 15 to enable the display of mobile telephone data on the display screen 20 of the display monitor 15 (see column 2, lines 26-31 and figure 1), which reads on the claimed "auxiliary communication means for establishing an auxiliary communication session

with an auxiliary rendering device". Tryding fails to teach the use of a transcoding proxy.

In a similar field of endeavor, Makipaa et al discloses a system where a user terminal 30 communicates to the content server 20 which is responsible for delivering data information to the user terminal 30 from a content provider 10. This content server includes a pagination engine 90 (see figure 2), which reads on the claimed "transcoding proxy" that converts the digital data to the proper format for each user terminal 30 (see column 6, lines 45-51).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Tryding with Makipaa to include the above reformatting of data for the specific device in order to operate with almost any web site so that the operator for the web site would not need to generate and maintain different web pages for different devices and screen types a user may have as suggested by Makipaa et al (see column 2, line 59 – column 3, line 2). The combination of Tryding and Makipaa et al discloses message exchange between the mobile telephone and the display monitor that result in determining a communications standard in which to communicate (see Tryding column 3, line 53 – column 4, line 18), however, the combination of Tryding and Makipaa et al fails to expressly disclose an assistance message from the auxiliary rendering device comprising information on the rendering capabilities of the auxiliary rendering device.

In a similar field of endeavor, Erekson discloses a system where the characteristics and capabilities of devices are identified in response messages (see

column 10, lines 48-49), which reads on the claimed "assistance message comprising information on the rendering capabilities of the auxiliary rendering device." Erekson further discloses that the characteristics and capabilities of various types of devices are stored in a database or lookup table and the user selects one of the remote devices by touching a stylus to the screen of the display device (see column 10, line 47 – column 11, line 4), which reads on the claimed, "wherein the primary communication means selects between auxiliary rendering devices based upon the rendering capabilities," wherein the selection is done by the user at the primary communication means fulfilling the limitation of the primary communication means selects the auxiliary rendering device.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Tryding and Makipaa et al with Erekson to include the above capabilities message transmitted to the mobile and selection of an auxiliary rendering device in order to enable user-friendly interfaces, and also allow a variety of remote devices to be controlled, including new devices introduced into the home or business, as suggested by Erekson (see column 11, lines 50-65).

Regarding **claim 2**, the combination of Tryding, Makipaa et al and Erekson discloses a phone display 35 (see Tryding figure 1), which reads on the claimed "rendering means for rendering content received in the primary communication session". A text display menu 75 enables section of the various types of text or information which a user desires to have displayed upon the display screen 20 of display monitor 15 so that the user may selectively program the type of data which is

going to be displayed upon the display monitor rather than having all types of display data presented (see Tryding column 3, lines 17-33), which reads on the claimed "rendering control means for examining the content and redirecting the content to one of the rendering means and the auxiliary communication means in dependence on the examination". The apparatus also generates a communications link 5 between a mobile telephone 10 and a display monitor 15 to enable the display of mobile telephone data on the display screen 20 of the display monitor 15 (see Tryding column 2, lines 26-31 and figure 1), which reads on the claimed "auxiliary communication means are arranged for transmitting the content via the auxiliary communication session for rendering by the auxiliary rendering device".

Regarding **claim 3**, Tryding discloses that a DISPLAY_TEXT command is transmitted to the display monitor according to a first communications standard for a first type of television/computer monitor and then waits for a response. If a response is not received, a next standard is accessed and the DISPLAY_TEXT command is retransmitted using this standard. This continues until the display monitor recognizes the command and responds, indicating that the connection is set up (See column 3, line 53 – column 4, line 17) and, in one embodiment, a confirmation message would be sent (see column 3, lines 44-52), which reads on the claimed "auxiliary communication means are arranged for establishing the auxiliary communication session in response to the assistance message." Tryding fails to disclose transmitting information on the rendering capabilities to the transcoding proxy.

In a similar field of endeavor, Makipaa et al discloses a system where a user terminal 30 communicates to the content server 20 which is responsible for delivering data information to the user terminal 30 from a content provider 10. This content server includes a pagination engine 90 (see figure 2), which reads on the claimed "transcoding proxy" that converts the digital data to the proper format for each user terminal 30 (see column 6, lines 45-51). Further, Makipaa discloses that the system receives a terminal type message from the terminal (see column 7, lines 51-62 and figures 3 and 4).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Tryding with Makipaa to include the above reformatting of data for the specific device type and the device type message transmitted form the terminal to the system in order to operate with almost any web site so that the operator for the web site would not need to generate and maintain different web pages for different devices and screen types a user may have as suggested by Makipaa et al (see column 2, line 59 – column 3, line 2). The combination of Tryding and Makipaa et al discloses message exchange between the mobile telephone and the display monitor that result in determining a communications standard in which to communicate, however, the combination of Tryding and Makipaa et al fails to expressly disclose an assistance message from the auxiliary rendering device comprising information on the rendering capabilities of the auxiliary rendering device.

In a similar field of endeavor, Erekson discloses a system where the characteristics and capabilities of devices are identified in response messages (see column 10, lines 48-49), which reads on the claimed "assistance message comprising

information on the rendering capabilities of the auxiliary rendering device." Erekson further discloses that the characteristics and capabilities of various types of devices are stored in a database or lookup table and the user selects one of the remote devices by touching a stylus to the screen of the display device (see column 10, line 47 – column 11, line 4), which reads on the claimed, "wherein the primary communication means selects between auxiliary rendering devices based upon the rendering capabilities," wherein the selection is done by the user at the primary communication means fulfilling the limitation of the primary communication means selects the auxiliary rendering device.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Tryding and Makipaa et al with Erekson to include the above capabilities message transmitted to the mobile and selection of an auxiliary rendering device in order to enable user-friendly interfaces, and also allow a variety of remote devices to be controlled, including new devices introduced into the home or business, as suggested by Erekson (see column 11, lines 50-65).

Regarding **claim 4**, the above combination of Tryding, Makipaa et al and Erekson discloses that a DISPLAY_TEXT command is transmitted to the display monitor according to a first communications standard for a first type of television/computer monitor and then waits for a response. If a response is not received, a next standard is accessed and the DISPLAY_TEXT command is retransmitted using this standard. This continues until the display monitor recognizes the command and responds, indicating that the connection is set up (see Tryding

column 3, line 53 – column 4, line 17), which reads on the claimed "the auxiliary communication means are arranged for transmitting an assistance request to at least one auxiliary rendering device."

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tryding in view of Makipaa et al and Erekson as applied to claim 4 above, and further in view of Ranta et al (US006775558B1)

Regarding **claim 5**, the above combination of Tryding, Makipaa et al and Erekson discloses a downlink 30 between a base transceiver station 25 and a mobile telephone 10 for transmitting a variety of data and messages (see Tryding column 2, lines 30-33 and figure 1), which reads on the claimed "the primary communication means are arranged for receiving a communication request for establishing the primary communication session." Also, a communications link 5 is established between the mobile telephone 10 and the display monitor 15 (see Tryding column 2, lines 39-56), which reads on the claimed "the auxiliary communication means are arranged for transmitting the assistance request." The combination of Tryding, Makipaa et al and Erekson fails to expressly disclose that the assistance message is transmitted in response to a communication request.

In a similar field of endeavor, Ranta et al discloses a system where a connection between a terminal and an accessory device may be automatically activated when either of the devices realizes that it has data to be transmitted to the other device (see column 9, lines 18-20).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Tryding, Makipaa et al and Erekson with Ranta et al to include the above automatic activation of the accessory connection in order to make a more user friendly system requiring less intervention from the user.

Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tryding, Makipaa et al and Erekson as applied to claim 4 above, and further in view of Otsuka et al (US006330448B1).

Regarding **claim 6**, the combination of Tryding, Makipaa et al and Erekson fails to expressly disclose transmitting an assistance request when a level for the quality of a previously established auxiliary communication session drops below a predetermined value.

In a similar field of endeavor, Otsuka discloses a system where a device monitors a received signal to determine if it is lower than a threshold. If it is and a stronger signal is available, a handover request is transmitted (see figure 3).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Tryding, Makipaa et al and Erekson with Otsuka et al to include the above transmission when a signal strength falls below a threshold in order to provide a user with the best quality of service available.

Regarding **claim 15**, the combination of Tryding, Makipaa et al and Erekson fails to disclose comparing a scanned RF level to a predefined threshold to determine

whether the auxiliary communication session is to be migrated to another auxiliary rendering device.

In a similar field of endeavor, Otsuka discloses a system that, measures the received signal and compares it to a threshold in order to determine if a handover is to be made (see figure 3), which reads on the claimed "scanner for scanning an RF level...and comparing the scanned RF level to a predefined threshold to determine whether the auxiliary communication session is to be migrated."

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Tryding, Makipaa et al and Erekson with Otsuka et al to include the above migration when a signal strength falls below a threshold in order to provide a user with the best quality of service available.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tryding in view of Erekson.

Regarding **claim 8**, Tryding discloses an apparatus that generates a communications link 5 between a mobile telephone 10 and a display monitor 15 to enable the display of mobile telephone data on the display screen 20 of the display monitor 15 (see column 2, lines 26-31 and figure 1), which reads on the claimed "auxiliary rendering device comprising: mobile communication means for establishing an auxiliary communication session with a mobile device; and rendering means for rendering content received in the auxiliary communication session." Tryding discloses message exchange between the mobile telephone and the display monitor that result in

determining a communications standard in which to communicate (see column 3, line 53 – column 4, line 18), however, Tryding fails to expressly disclose an assistance message from the auxiliary rendering device comprising information on the rendering capabilities of the auxiliary rendering device.

In a similar field of endeavor, Erekson discloses a system where the characteristics and capabilities of devices are identified in response messages (see column 10, lines 48-49), which reads on the claimed "assistance message comprising information on the rendering capabilities of the auxiliary rendering device." Erekson further discloses that the characteristics and capabilities of various types of devices are stored in a database or lookup table and the user selects one of the remote devices by touching a stylus to the screen of the display device (see column 10, line 47 – column 11, line 4), which reads on the claimed, "wherein the rendering capabilities are employed to permit the mobile device to select for rendering the auxiliary rendering device from among a plurality of auxiliary rendering devices based upon the rendering capabilities," wherein the selection is done by the user at the mobile device means fulfilling the limitation of the mobile device selects the auxiliary rendering device.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Tryding and Makipaa et al with Erekson to include the above capabilities message transmitted to the mobile and selection of an auxiliary rendering device in order to enable user-friendly interfaces, and also allow a variety of remote devices to be controlled, including new devices introduced into the home or business, as suggested by Erekson (see column 11, lines 50-65).

Regarding **claim 9**, the above combination of Tryding and Erekson discloses that a DISPLAY_TEXT command is transmitted to the display monitor according to a first communications standard for a first type of television/computer monitor and then waits for a response. If a response is not received, a next standard is accessed and the DISPLAY_TEXT command is retransmitted using this standard. This continues until the display monitor recognizes the command and responds, indicating that the connection is set up (see Tryding column 3, line 53 – column 4, line 17) and, in one embodiment, a confirmation message would be sent (see Tryding column 3, lines 44-52), which reads on the claimed "the mobile device communication means are arranged for transmitting the assistance message to the mobile device in response to receiving an assistance request from the mobile device."

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tryding, Makipaa et al and Erekson as applied to claim 1 above, and further in view of Schramm et al (US006542742B2).

Regarding **claim 12**, the combination of Tryding, Makipaa et al and Erekson fails to disclose selecting a most suitable device based on the capabilities of the devices.

In a similar field of endeavor, Schramm et al discloses a system that monitors the capabilities of candidates for communication and selects only stations that support the capabilities of the MS (see column 5, line 56 – column 6, line 23 and figure 3a).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Tryding, Makipaa et al and Erekson with

Schramm et al to include the above selection of stations based on capabilities in order to ensure that any station connected to is compatible.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tryding, Makipaa et al and Erekson as applied to claim 1 above, and further in view of Bruckert et al (US005390339A).

Regarding **claim 13**, the combination of Tryding, Makipaa et al and Erekson fails to expressly disclose selection based on proximity to the device.

In a similar field of endeavor, Bruckert et al discloses a system that estimates one devices location and selects the station closest to the location estimates to serve it (see column 2, lines 39-52).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Tryding, Makipaa et al and Erekson to include the above selection based on nearest station in order to over come the problems associated with Rayleigh fading, etc. as suggested by Bruckert et al (see column 1, lines 19-35).

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tryding, Makipaa et al and Erekson as applied to claim 1 above, and further in view of Broderick (US005995829A).

Regarding **claim 14**, the combination of Tryding, Makipaa et al and Erekson fails to expressly disclose a timer for timing a time period for a response to avoid an indication that none of the plurality of devices are available.

In a similar field of endeavor, Broderick discloses a system with a timer that determines a length of time that is allowed for attempting to acquire service before determining that no service is available (see column 5, lines 26-29).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Tryding, Makipaa et al and Erekson with Broderick to include the above timer for determining if service is available in order to avoid the continuous scanning and battery power required for scanning when no service is available.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Tryding, Makipaa et al and Erekson as applied to claim 1 above, and further in view of Baranowski et al (US006473630B1).

Regarding **claim 16**, the combination of Tryding, Makipaa et al and Erekson discloses that the content includes video content (see Tryding column 3, lines 24-33), however, the combination fails to disclose that the content includes audio content.

In a similar field of endeavor, Baranowski et al discloses a system for rendering audio information externally (see figure 1).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Tryding, Makipaa et al and Erekson with

Baranowski et al to include the above external audio in order to allow a user to communicate without the need to hold the phone to his head.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tryding in view of Erekson as applied to claim 8 above, and further in view of Baranowski et al.

Regarding **claim 18**, the combination of Tryding and Erekson discloses that the content includes video content (see Tryding column 3, lines 24-33), however, the combination fails to disclose that the content includes audio content.

In a similar field of endeavor, Baranowski et al discloses a system for rendering audio information externally (see figure 1).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Tryding and Erekson with Baranowski et al to include the above external audio in order to allow a user to communicate without the need to hold the phone to his head.

(10) Response to Argument

The Examiner would like to point out the appealed claims are apparatus claims with functional language. The Examiner contends the pieces are found in the primary reference, i.e. the primary and secondary communication means for claim 1, and the mobile device communication means and rendering means recited in claim 8 and the secondary references are relied upon only to show the functional language recited. The functional language in an apparatus claim is not necessarily limiting.

The Appellant argues the combination of Tryding, Makipaa and Erekson fails to disclose the auxiliary communication session including content of the primary communication session that is adapted to the capabilities of the auxiliary rendering device. The Examiner respectfully disagrees. Specifically, the Appellant argues that Tryding fails to disclose adapting the content to the rendering capabilities of the auxiliary rendering device. Makipaa is relied upon for this limitation: Makipaa et al discloses a system where a user terminal 30 communicates to the content server 20 which is responsible for delivering data information to the user terminal 30 from a content provider 10. This content server includes a pagination engine 90 (see Makipaa figure 2). The Appellant argues that Makipaa fails to teach the auxiliary rendering deivce, however, Tryding is relied upon to disclose this limitation: The apparatus also generates a communications link 5 between a mobile telephone 10 and a display monitor 15 to enable the display of mobile telephone data on the display screen 20 of the display monitor 15 (see Tryding column 2, lines 26-31 and figure 1).

The Appellant argues Erekson fails to teach a rendering device sending a message comprising information on its rendering capabilities. The Examiner respectfully disagrees. Erekson is relied upon only to disclose a message including the capabilities of the device. Erekson discloses a system where the characteristics and capabilities of devices are identified in response messages (see column 10, lines 48-49).

The Appellant makes similar arguments with respect to the remainder of the rejected claims, however, for the same reasons outlined above, the Examiner respectfully disagrees.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Bryan Fox

Conferees:

Joseph Field

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SUPERVISORY PATENT EXAMINER

Nick Corsaro

NICK CORSARO
PRIMARY EXAMINER